IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 409 of 2000
CRIMINAL REVISION APPLICATION No 410 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ZUZAR A KATHAWALA

Versus

STATE OF GUJARAT

Appearance:
MR PR NANAVATI for Petitioners
MR BY MANKAD APP for Respondent No. 1
MR AKSHAY H MEHTA for Respondent No. 2

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 22/11/2000

COMMON ORAL JUDGEMENT

Rule. Service of rule is waived by Mr.B.Y.Mankad, learned APP for the Revision - Opponent No.1 and Mr.Akshay Mehta, learned advocate for the Revision - Opponent No.2. With the consent of both the parties, this matter is taken up for final hearing today.

Heard the learned advocates for both the parties.

At the outset of arguments, learned advocates for both the parties jointly submitted that a common order dated 19th August, 2000, by which applications Exh.41 and Exh.55 have been decided in Criminal Case No.5/93 by the learned Additional Chief Judicial Maistrate, Valsad be set aside and matter be remanded back to the trial court with suitable directions to the learned Magistrate.

Having heard the learned advocates for both the parties and on going through the impugned order and grounds stated in memo of this revision, this Court is of the view that the impugned order dated 19th August, 2000, is required to be set aside. Accordingly, impugned common order dated 19th August, 2000, passed by learned Additional Chief Judicial Magistrate, Valsad, in Criminal Case No.5 of 1993 by which applications Exh.41 and Exh.55 are decided is set aside. The Additional Chief Judicial Magistrate, Valsad, is directed to hear and decide applications Exh.41 and Exh.55 in Criminal Case No.5 of 1993 afresh, by affording full opportunity of being heard to both the parties, without being influenced by this order of this Court. As the case is of 1993, the learned Chief Judicial Magistrate, Valsad, is directed to hear and decide said two applications, as early as possible preferably within one month from the date of receipt of writ of this Court.

With the aforesaid directions, this Criminal Revision Applications stands disposed of accordingly. Rule is made absolute to the aforesaid extent.

(H.H. Mehta, J.)

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